

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1-14, 31, 32, and 34 that are pending in the above-identified patent application. Applicant has amended claim 1 herein. No new matter is added by the amendments. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

Claim Rejections under 35 U.S.C. §103:

At numbered parts 2-3 of the Office Action, the Examiner has rejected claims 1-14, 31, 32, and 34 under 35 U.S.C. § 103(a) as being unpatentable over Casper et al. (U.S. Pat. No. 6,644,309) (hereinafter referred to as the “’309 patent”) in view of Casper et al. (U.S. Pat. No. 6,550,477) (hereinafter referred to as the “’477 patent”). Applicant respectfully traverses the Examiner’s rejection.

Amended independent claim 1 recites, “...a container cartridge having a non-pressurized cylinder therein, at rest, containing a single-dose of the drug, a piston in the cylinder, and an outlet end opposite the inlet end having a dispensing facility and means for feeding the drug thereto...” (Emphasis added.)

At numbered part 4 of the Office Action, the Examiner alleges that the ‘309 patent teaches or suggests a piston in the cylinder. Specifically, the Examiner alleges that the movement of the piston 30 urges the movement of valve stem 58 thereby facilitating the bursting of the cartridge 72. The Examiner further alleges that intrinsically, the point in which valve stem 58 urged by the piston is in contact with the cartridge 72 the piston is in the cylinder. Applicant respectfully disagrees with the Examiner.

Because a plurality of deficiencies exist within the ‘309 patent that the ‘477 patent does not cure, the teachings ‘309 patent and the ‘477 patent, alone or in combination, do not result in the present invention as presently claimed in amended independent claim 1 of the instant application. First, as shown in FIGS. 1 and 3-6 of the ‘309 patent, piston 30 of the ‘309 device is never in contact with valve stem 58 because piston 30 is within barrel 46 while valve stem 58 is separately contained within the housing member 60. The piston 30 never enters the housing member 60 because the stopper 28 of piston 30 stops the piston 30 within the pressure chamber 92 in barrel 46. Second, valve stem 58 is never in contact with cartridge 72. Cartridge 72 rests in housing member 60 above and not in contact with the finger 69 while valve stem 58 rests in housing member 60 below finger 69, as shown in FIGS. 3-6 of the ‘309 patent. Third, from col. 9, lines 56-67 of the ‘309 patent, when a person wants to use the inhaler, the person pushes housing member 60 towards barrel 46 such that the finger 69, and not piston 30, pushes down on valve stem 58 to release the pressure stored within pressure chamber 92. Fourth, because piston 30 is

never within the housing member 60, the piston can never be located in the cylinder, let alone the passage 84, of the cartridge 72.

Because the teachings of the '309 patent and the '477 patent, alone or in combination, do not disclose or suggest a piston in the cylinder as claimed, the teachings of the '309 patent and the '477 patent, alone or in combination, do not disclose or suggest a mobile element and an elastic element as claimed. Indeed, an elastic element of the present invention stores a predetermined quantity of energy, which is fed to the mobile element, and the energy moves the mobile element to "move the piston [within the cylinder in the container cartridge] and expose the single-dose of the drug to a predetermined increase in pressure within the cylinder..." (Emphasis added.)

In view of the above, Applicant submits that amended independent claim 1 is patentable. As claims 2-14, 31, 32, and 34 depend from amended independent claim 1, and recite additional patentable features, claims 2-14, 31, 32, and 34 are, therefore, likewise patentable. Accordingly, Applicant respectfully requests the Examiner's §103 rejection be withdrawn.

Conclusion:

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

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Respectfully submitted,

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